

SUBJECT TO FINAL EDITING

JUDICIAL COUNCIL OF THE UNITED METHODIST CHURCH

DECISION 1478

[Docket 0423-03]

IN RE: Request for a Declaratory Decision from the October Special Session of the Northeast Jurisdictional Conference as to Whether the College of Bishops' Exceeded its Disciplinary Role and Authority by Submitting to the October Special Session a Written Recommendation That the Delegates Hold No Elections and Elect No Bishops to Fill the Episcopal Office Vacancies at the Jurisdictional Conference in November, and Ignored the Disciplinary Provisions that Vests the Authority to Make such Recommendations in the Jurisdictional Committee on the Episcopacy.

DIGEST

A College of Bishops may make recommendations and express viewpoints different from other jurisdictional bodies as long as episcopal declarations are advisory in nature and are not legislative acts.

STATEMENT OF FACTS

During a special session held virtually on October 15, 2022, delegates to the Northeastern Jurisdictional [hereinafter NEJ] Conference voted to elect two new bishops at the upcoming November 2-4 Jurisdictional Conference. The vote was 81 to 69. The delegates made the decision after hearing reports from the NEJ Committee on Episcopacy and the NEJ College of Bishops regarding episcopal elections. The College of Bishops had recommended that there be no election of new bishops during the 2022 Session of Jurisdictional Conference, while the Committee on Episcopacy had recommended one election. NEJ Conference, ADCA, vol. 21, Issue, 1, November 2022, at 1.

A clergy delegate made the following motion to request a Declaratory Decision from the Judicial Council:

I move that the Jurisdictional Conference request a Declaratory Decision from the Judicial Council, according to ¶ 2610.2(f), as to whether the zero-election recommendation of the NEJ College of Bishops is legislative in nature and in

violation of ¶49 Article V of the Constitution, and/or ¶415.1 and/or ¶522, and the constitutional separation of powers.

The motion was seconded and passed with 81 YES and 55 NO. Minutes of NEJC, Proceedings of Oct. 15, 2022, at 6.

Jurisdiction

The Judicial Council has jurisdiction under ¶ 2610.2(f) of *The 2016 Book of Discipline*.

Analysis and Rationale

The Constitution of The United Methodist Church entrusts bishops with “residential and presidential supervision in the jurisdictional or central conferences,” ¶ 49, and in discharging this duty the College of Bishops may make recommendations, even if they contain viewpoints different from those of the Committee on Episcopacy. The power to elect bishops is squarely lodged with the Jurisdictional Conference. Const. ¶ 27.2. There is no violation of the separation of powers as long as episcopal statements are advisory in nature and are not legislative acts. In this case, we hold that the statement of the NEJ College of Bishop constitutes the former.

In JCD 1415, the Judicial Council held that the “episcopal address is an appropriate and frequently employed means to exercise that oversight and leadership role in the session of annual conference.” If a presiding bishop enjoys freedom of expression in a session of annual conference, the same right should be afforded to the members of the College of Bishops at jurisdictional conference. To hold otherwise could have the chilling effect on thoughtful debate for any person serving in a pastoral, supervisory, or episcopal role. Preaching, teaching, and counseling would be adversely impacted out of fear that a statement could be litigated before the Judicial Council. There is no basis for this kind of stifling of the expression of viewpoints. However, in exercising their free speech, bishops must be careful to avoid exerting undue influence on the legislative and electoral processes at all levels of the Church.

Decision

A College of Bishops may make recommendations and express viewpoints different from other jurisdictional bodies as long as episcopal declarations are advisory in nature and not legislative acts.

April 25, 2023

Dissenting Opinion

The authority of United Methodist Bishops is presidential and supervisory in nature [¶ 49]. Bishops are responsible to provide temporal and spiritual leadership for the church and exercise episcopal duties [¶¶ 414- 415]. The scope and limitations upon episcopal authority are the subjects of many Judicial Council Decisions, including Decisions 1311 and 1312.

Decision 22 sets forth:

A Bishop effective or retired, is not a member of an Annual Conference. He should not be counted in reporting the total membership of the Conference for statistical purposes or in computing the number of delegates.

No provision should be made by the Annual Conference for him as a Conference Claimant; other provision has been made by the General Conference; nor is he subject to Annual Conference assessments.

He is not eligible to election as a delegate representing the Annual Conference in the General or Jurisdictional Conferences; nor is he entitled to vote in a Annual Conference for delegates to General and Jurisdictional Conferences.

When elected a Bishop, if at the time a delegate, his membership in the electing Conference as an Annual Conference delegate terminates and his place is immediately filled by an elected alternate delegate.

If he resigns from the Episcopacy he is returned, by the definitely prescribed procedure, to membership in the Annual Conference of which he ceased to be a member when elected Bishop.

Here, the College of Bishops overstepped its role and authority. In so doing, the College **USURPED THE MANDATED AUTHORITY OF THE GENERAL CONFERENCE OVER ALL MATTERS DISTINCTIVELY CONNECTIONAL.**

The Constitution sets forth that:

The General Conference shall have full legislative power over all matters distinctively connectional, and in the exercise of this power shall have authority as follows: ...

3. To define and fix the powers and duties of annual conferences ...

5. To define and fix the powers, duties and privileges of the episcopacy ...
8. To initiate and to direct all connectional enterprises of the Church and to provide boards for their promotion and administration

The Judicial Council has consistently upheld the legal and constitutional principle that Annual Conferences may not restructure themselves in ways that violate the constitutional and legislative mandates of the General Conference. With the 1968 union of The Methodist Church and the Evangelical United Brethren Church came shared and immutable assumptions regarding structure which were embedded in the Constitution of 1968. In the Preamble to the Constitution, the essential relationship of structure to unity is made manifest in the transmittal of the Plan of Union from the Commissions on Church Union to their respective denominations as follows:

Therefore, we, the Commissions on Church Union of The Methodist Church, and of the Evangelical United Brethren Church, holding that these churches are essentially one in origin, in belief, in spirit, and in purpose, and desiring that this essential unity be made actual in organization and administration in the United States of America and throughout the world (emphasis added), do hereby propose and transmit to our respective General Conferences the following Plan of Union...

With the adoption of the Plan of Union by the constituent communions of what has become The United Methodist Church came a covenantal understanding that matters of structure, organization, and episcopal authority, were reserved to the General Conference's legislative authority. This understanding is fundamental to our connectional polity. Given this understanding, it cannot be constitutional for Annual Conferences to be permitted to restructure themselves without specific authorization from the General Conference. That authorization, if given, must retain the fundamental constitutional assumptions of our denomination.

General Conference has provided for the methods and processes that determine the number of Bishops to be elected in each jurisdiction. It is a dynamic process that is balanced between the roles and functions of the Interjurisdictional Committee on the Episcopacy on behalf of the Jurisdictional Committees on Episcopacy, the General Council on Finance and Administration, and ultimately on the determination by General Conference as to the number of episcopal leaders and areas that will be funded within each jurisdiction. That final and exclusive authority is vested in the General Conference. It is then the role of each Jurisdiction's Committee on the Episcopacy to advise the delegates in their respective jurisdictional conferences as to the status of active Bishops and the number of vacancies that exist. At no point in this process is it permissible, proper or appropriate for the episcopacy to directly advise or recommend to the delegates that they should forgo filling vacancies and delay the assembly of a newly reconfigured College of Bishops.

[The Judicial Council does not know whether the delegates of the Northeast Jurisdictional Conference were apprised of the amounts of additional monthly income that is being paid to each active Bishop that is serving as an interim Bishop in each vacancy. However, if a Bishop is receiving an additional \$1,500 or more per month due to episcopal vacancies within the jurisdiction, then that information ought to be shared with the delegates so that each may decide whether, and the degree to which, he or she desires to factor that incentive into their decision making.]

Judicial Council Decision 831 is clear about the role and the authority of the bishop when it sets forth “bishops have historically exercised authority through the appointment process, worship and persuasion [which is to be exercised in full compliance with all provisions of the *Discipline*], . . .” nor do we give him or her a vote. Our polity has balanced executive, legislative and judicial authority. . .” It is a long-standing principle that bishops, who are not members of the annual conference, may not bring or initiate legislation to the annual conference. [JCD 831. See also Decisions 22, 1023, 1257.]

Oversight always operates within the constitutional constraints placed on the bishop. The Discipline does not give the bishop authority to bring specific recommendations directly to the legislative body. Bishops have no power to initiate legislation that may be brought to the conference for approval. (Decision 831).

Any recommendation from a College of Bishops to a Jurisdictional Conference about that which is within the exclusive legislative authority of the Jurisdictional Conference exceeds the role and responsibilities of the episcopacy, usurps and undermines the authority of the legislative body, and is in direct violation of the Discipline.

The NEJ College of Bishops’ written recommendation to the NEJ Delegates urging them to elect no new bishops, is in direct violation of the *Discipline* and undermines the constitutional separation, and balance, of powers.

Beth Capen
Dennis Blackwell

April 25, 2023